

DECISION



McConnell
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548 *26391*

FILE: B-212902

DATE: September 30, 1983

MATTER OF: Stratotech Corporation

DIGEST:

Where a small business concern is determined to be nonresponsible by a contracting officer, GAO will not review the subsequent denial by the Small Business Administration of a certificate of competency absent a showing of possible fraud or bad faith.

Stratotech Corporation, a small business concern, protests the Small Business Administration's (SBA) refusal to issue the firm a certificate of competency (COC) under solicitation No. DAAA09-83-B-4683 issued by the Department of the Army. The solicitation sought bids for gas mask intake valves.

We dismiss the protest.

Stratotech contends that the SBA, in making its COC decision, unduly relied on the contracting officer's non-responsibility determination. The firm also claims that the nonresponsibility determination was erroneous since it resulted from an allegedly unjustified termination for default of an earlier contract Stratotech received to supply the same item. Stratotech asserts that it has independent evidence contradicting the first article test results that formed the basis for the termination (which currently is the subject of an appeal under the contract's disputes procedures). Both the contracting officer and the SBA, Stratotech argues, ignored that evidence in their deliberations, as well as evidence that the firm had successfully performed similar contracts in the past. Stratotech believes, therefore, that the SBA wilfully ignored the facts in denying the firm a COC.

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We will not review the SBA's action. By law, the SBA has conclusive authority to certify the competency of any small business concern. 15 U.S.C. § 637(b) (1982). Thus, we generally limit our review of COC determinations to instances in which the protester has made a prima facie showing of fraud or bad faith, or of failure by the SBA to consider vital information bearing on the firm's responsibility. Martin Tool and Die, Incorporated, B-208796, January 19, 1983, 83-1 CPD 70.

In this case, Stratotech disagrees with the SBA's conclusion and therefore assumes that the SBA ignored certain information in making its determination. The SBA, however, insists that it reached its decision after carefully reviewing all the information supplied. While Stratotech may believe that the SBA should have drawn a different conclusion based on that information, mere disagreement with the SBA does not amount to a prima facie showing that the SBA acted fraudulently or in bad faith. See Tri-Marine Industries, Inc., B-210652.3, May 12, 1983, 83-1 CPD 503. Consequently, we conclude that there is no basis for us to consider the firm's protest.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel